IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 9658 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMANBHAI SOMABHAI PATEL & 1 - Applicant(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR ZUBIN F BHARDA for Applicant(s) : 1 - 2.
MR HL JANI for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 11/10/2005

ORAL JUDGMENT

1.Rule. Mr. H.L. Jani, learned Assistant Public Prosecutor appearing for the respondent no.1 State waives service of rule. Respondent no.2 Mr. Shantilal Dahyabhai Patel is personally present in the court. He waives service of rule. Since the matter has been settled between the parties, the same is taken up for final

disposal.

2.This petition is filed under Section 482 of the Criminal Procedure Code praying for quashing and setting aside the FIR (criminal complaint) lodged with Valsad Rural Police Station vide Crime Register No. I-128 of 2005 under Sections 420, 467, 468 and 114 of the Indian Penal Code.

3.This court has issued the notice on 23.08.2005 and granted ad-interim stay against further investigation . The court passed further order on 27.09.2005 after hearing Mr. Zubin F Bharda, learned advocate appearing for the petitioners and Mr. HL Jani, learned Assistant Public Prosecutor. The original complainant was also personally present on 27.09.2005 and today also he is present before the court. The Investigating Officer was also present. After hearing the parties, the court was of the view that original trust deed as well as utilization of the amount withdrawn by the present petitioners are required to be seen. The petitioners were, therefore, required to produce the same. Though the court has passed an earlier order on 23.08.2005 granting ad interim relief and the investigation was stayed, the court was of the view that further

investigation in the matter is still required and hence the order dated 23.08.2005 was required to be modified to certain extent. The Investigating Officer was, therefore, directed on 27.09.2005 to carry out investigation. The court has also made clear that if the petitioners' presence is required for recording statement or for production of any document the Investigating Officer shall intimate to them before 24 hours. The court has also directed the petitioners to cooperate with the Investigating Officer when their presence was required.

4.Pursuant to the said order the statement of the petitioners were recorded. Mr Zubin Bharda, learned advocate appearing for the petitioners has submitted that after the notice was issued by this court and statements were recorded by the Investigating Officer, the compromise was arrived at between the parties and the present petitioners as well as the respondent no.2 have entered into a Memorandum of Understanding on 08.10.2005 wherein it is specifically stated that the disputes arose between them in respect of administration of the trust as well as certain accounts of the trust are settled and the complainant has agreed to withdraw the complaint filed against the present petitioners unconditionally. A copy

of the said compromise entered into on 08.10.2005 is placed on record. The petitioner no.1 and respondent no.2 both are personally present today in the court. Mr. Zubin Bharda has identified the petitioner and the petitioner has identified the respondent no.2. The Respondent no.2 has also produced his Identity Card. Copy thereof is placed on record.

5.After having gone through the deed of compromise and after having heard the parties, the court is of the view that when the entire dispute is amicably settled there is no need to send the parties for trial. Even otherwise the offence alleged is purely of a civil nature. As per the settled legal positions and the view taken by the Hon'ble Supreme Court and this court in many cases, the court is of the view that the complaint in question filed by the respondent no.2 against the present petitioners, in view of the settlement arrived at between them, is required to be quashed and set aside. It is accordingly quashed.

6.Rule made absolute without any order as to costs. Direct service permitted.

(K.A. PUJ,

J.)Divya//